GOVERNMENT OF MYSORE.

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT (LABOUR).

Labour Dispute.—Industrial Dispute between the Workmen and the Management of Mysore Spinning and Manufacturing Co., Ltd., Processing Factory, Rajajinagar, Bangalore-10.

Award of the Additional Industrial Tribunal, Bangalore—Published.

Read the following Papers :—

(i) Letter A. I. T. No. 865/67-68 dated 10th January 1968 from Shri V. C. Ramachandran Presiding Officer, Additional Industrial Tribunal, Bangalore.

BEFORE THE ADDITIONAL INDUSTRIAL TRIBUNAL BANGALORE.

Dated 9th January 1968.

Present :

Shri V. C. Ramachandran, B.A., B.Sc., (London) Bar-at-law.
Presiding Officer.

A. I. D. No. 9 of 1966.

I Party:		*II Party:*
Workers of Mysore Spinning and Manufacturing Co., Ltd., Processing Factory, Rajajinagar, Bangalore-10.	*Vs.*	Management of Mysore Spinning and Manufacturing Co., Ltd., Processing Factory, Rajajinagar, Bangalore-10.

Appearances

For the I Party :—Sri V. Hari Rao, Advocate, Bangalore.

For the II Party :—Sri T. Rangaswamy Iyengar, Advocate, Bangalore.

Reference : Government Order No. LMA 605 LLD 65, Bangalore dated 11th March 1966.

AWARD:

The Government of Mysore have referred an industrial dispute existing between the workmen and management of Mysore Spinning and Manufacturing Co., Ltd., Processing Factory, Rajajinagar, Bangalore-10 in their Order No LMA 605 LLD 65, dated 11th March 1966, under Section 10 (1) *d* of the Industrial Disputes Act, 1947. Subsequently the Reference was withdrawn from the file of the Industrial Tribunal by G.O. No. LMA 595 LLE 66, dated 29th November 1966 and transferred the same for disposal to this Additional Industrial Tribunal. It was taken on file by this tribunal and re-numbered as A.I.D. No. 9/66.

The points of dispute referred to the tribunal are as follows :—

"1. Was oiling of the machine like Printing machine, Jiggers, Stentors, Drying Machine, etc., a part of the work of the Machinemen employed by the Mysore Spinning and Manufacturing Co., Ltd., Processing Factory, Rajajinagar, Bangalore-10, prior to 31st August 1965 ?

2. If the answer to the issue No. 1 is in the negative, does the action of the Management in not allowing the workers to carry on their work unless they oiled the the machines amount to a lock-out ?

3. Does the action of the management also amount to violation of Section 9 (*a*) of the Industrial Disputes Act ?

4. If the answer to issue No. 1 is in the affirmative, does the action of the workers amount to a strike ? If so, is the strike justified ?"

The I Party viz., the workmen of the Mysore Spinning and Manufacturing Co., Ltd., Processing Factory, Rajajinagar, Bangalore-10, are represented by the Mysore Mills Labour Association and they have filed a statement of claim. Their grievance is that the Machine men of the factory were required by the Management to undertake oiling of the respective machines of the said factory in addition to and above their normal and regular duties. Such a demand was made by the Management according to them, for the first time on the 31st of August 1965. The workmen contend that oiling of machines never was or has been part of the duties of the machinemen and that that work was being performed by others specially designated for the purpose. The Management shut off

the electric current when the machinemen refused to oil the machines and thus prevented the workmen from working as usual and the management refused to allow them to resume the work. The workmen further contend that the demand of the management that the machinemen should oil the machines, amounted to imposing a new service condition for which necessary notice had not been given As a result of the lock-out by the management the workers lost wages for nearly 22 days totalling nearly Rs. 22 000. The management did not consult the Association with regard to the sudden change of the service conditions and acted *mala fide* as an act of reprisal against the workmen and the association due to strained relations which were then existing between the management and the Association. The I Party workmen contend that they are entitled to full wages during the period of the lock-out. Besides, there is an agreement between the parties under which classification of work occupations in the mills are to be regulated as per the standard classification in Bombay which provides for separate Oilers to do oiling work. It is also a matter of custom and usage for oiling work in the factory being done separately by men designated for the purpose and not by machinemen. The I Party submits that both by virtue of an agreement and also by custom and usage the machinemen are not required to do the oiling work and the management insisted that they should oil the machines which virtually amounts to introduction of a new service condition for which a notice has to be given under Section 9-A of the Industrial Disputes Act. There was no question of any strike by the workmen and the management have *mala fide* locked out the factory and caused loss to the I Party. They pray that an award be passed holding that it was never part of the work of the machinemen to do oiling work, that the management's action in not allowing the workers to carry out their work amounted to a lock-out that the said lock-out was unjustified and illegal, that the workmen are entitled to wages during the period of the lock-out, that the action of the management was in violation of Section 9-A of the Industrial Disputes Act, 1947, and that there was no question of strike by the workmen.

2. The Management of the Company which is II Party, contend that oiling of the respective machines in the Processing Factory is a normal and regular duty of the machinemen. There are no other workmen specially designated for the purpose of

of oiling. Oiling of the machine consists of merely putting a few drops of oil with an Oil Can at specified points in the machine which is done generally once a week on the commencing week day and on rare occasions when any bearing gets hot. Originally there were separate Drying and Bleaching Departments in the two Mills, Mysore Mills and Minerva Mills. But in 1962 both these departments were combined and a new factory called the Processing Factory came into existence and the practice which obtained in the Mysore Mills and Minerva Mills in the Drying and Bleaching Department of machinemen oiling the machines, continued in the new Processing Factory. The transfer of machinery from those two departments to the Processing Factory and their erection took some time and during that period the cloth which had to be processed got accumulated and with a view to relieve this accumulation, the cleaning and oiling of some machines used to be done during the weekly holiday which entitled the machinemen to earn over time wages. At or about the time of the incident, *viz.*, August 1965, the accumulation had been cleared and cleaning and oiling those machines were done during working days and the practice of engaging machinemen to do work on weekly holidays had been put an end to as there was no need of over-time work. The management contend that the attitude for the machinemen in refusing to oil the machines was with a view to force the management to give them overtime work so that they may be enabled to earn overtime wages. On the day of the incident, *viz.*, 31st August 1965, the machinemen deliberately refrained from oiling the machines and wanted to start the machines without oiling them. Bearings would naturally get hot and the machines would get damaged if they work without oiling and hence the management was forced to stop the current as the machinemen refused to oil and wilfully disobeyed the orders of the management to oil the machines as usual. The oiling by machinemen cannot cause an additional workload nor can it effect the emoluments of the workmen. The management never refused to employ the workmen and give them their normal work. Refusal of the workmen to do the oiling amounts to a strike. There has been no lock-out and the workmen are not entitled to wages during the period they remained idle nor is the question of relief to workmen the subject matter of the Reference. There has been no *mala fides* on the part of the management nor has the management sought to impose a new service condition on the machinemen. The question of effecting any change or giving a notice

under Section 9-A of the Industrial Disputes Act does not arise. The management deny the allegations made by the workmen in their statement of claim and pray that the Reference be rejected.

3. The following issues have been framed as arising out the pleadings :—

"(1) Whether by agreement, custom and usage, the machinemen were not required to do oiling work and whether it was being done by other man designated for that purpose as alleged by the I Party Union ?

OR

Whether the machinemen kept idle in wilful disobedience of the orders of the Management to oil the machines as usual, as pleaded by the II Party management ?

(2) To what reliefs, if any, are the parties entitled ?"

4. Both the parties have adduced considerable evidence the I Party having examined workers who have stated that the oiling of the machines in the Processing Factory were being done not by the machinemen but by the Fitters and Helpers in that department while the witnesses examined by the Management contended that it is the machinemen who have been oiling the machines both while the machinemen were working in the Bleaching and Dying Department of Mysore and Minerva Mills and also after those two departments merged into the Processing Factory in the year 1962. Naturally the workers support their case and the management theirs. But in order to find out the truth the circumstances will have to be taken into consideration. There are certain admissions made by the workmen *viz.*, (1) that there are no separate category workmen known as Oilers in the Processing Factory, (2) that there was an accumulation of cloth at the time of transfer of the Dying and Bleaching Department of the Mysore and Minerva Mills to the Processing Factory which necessitated the employment of machinemen to do the cleaning and oiling work during the weekly holidays enabling them to earn overtime wages and which came to an end sometime in 1965 before the incident took place, (3) that there are only 4 fitters in the entire factory which

has nearly 40 to 50 machines (4) that the workload of the machinemen is not increased by doing the oiling work of the machines which is asked to be done only during the period they are liable to work and not outside the working hours and (5) lastly that there are other departments in the factory which have specially designated workmen called Oilers and that in the Processing Department and some other departments like Weaving, there are no separate category of workmen called Oilers and that the practice in some other mills is for the machinemen to do the oiling work.

5. The admissions made by the workmen lead to the irresistible conclusion that it was the machinemen who must have been doing the oiling of the machines. It would be noticed that in the statement of claim filed by the I Party it was repeatedly pointed out that there was a separate category of men who were designated for the purpose of oiling in the Processing factory. In other words the contention of the workmen was that oiling was done by a distinct class of workmen who were probably designated as Oilers. But during the course of the evidence that plea has not been substantiated and as a master of fact the workmen have stated that there were no category of workmen designated specially to do the oiling of the machines. The workmen contend that it is only Fitters who were doing the oiling both while the Processing was done in the Dying and Bleaching Department of the two Mills and also in the Processing Factory. If that were so, it is not consistent with the allegations made in the claim statement and seems to be an afterthought. If there are no separate Oilmen in the Processing factory, then the work of oiling the machines must have been done by the machinemen or the fitters. Assuming that the Fitters were doing the oiling, then 4 fitters have to oil about 50 machines and even assuming that oiling of each machine will take 10 minutes, oiling of 50 machines will take about 500 minutes or 8 hours which is a complete working day. The machinemen, if the Fitters alone had to do the oiling work, had to remain idle for the entire working day till the oiling is completed by the Fitters. No Management will have tolerated the machinemen to be kept idle for the whole working day and pay wages to them The contention of the workmen therefore seems to me to be most uneconomical and could not have been in vogue in any factory. On the other hand, if the machinemen did the oiling of the machines, there would be no waste of time at all. Each machine has two to three men so that the entire oiling of all the machines

if done by the machinemen could be completed in the course of 10 minutes or so and the machinemen could start the work of operating the machines within 10 minutes of the commencement of the working hours. That seems to make sense rather than the workmen's contention that the Fitters alone were doing the oiling work.

6. The workmen have not explained at all as to why the management should suddenly take upon themselves changing the service conditions and insisting upon the machinemen oiling the machine if it has been the practice for nearly 40 years ever since the inception of the Drying and Bleaching departments that Fitters alone had to do the oiling. The workmen contend that there were strained relations between them and the management at that time. But they have not given any evidence about the nature of that strained relationship nor the cause for it. On the contrary, the management have put forward a motive for the defiant attitude taken up by the machinemen which is amply borne out by the evidence on record. It appears that when there was a merger of the Drying and Bleaching Departments of the Mysore & Minerva Mills into the Processing Factory in the year 1962, there was accumulation of cloth which had to be processed. It took considerable time to transfer machineries from those two departments and erect them in the new premises at Rajajinagar. In order to get rid of the accumulated cloth and to accelerate the processing work in the factory, the cleaning and oiling were used to be got done during holidays which enabled the machinemen and fitters to earn overtime wages. When there was no accumulation of cloth the management stopped this practice with the result that the machinemen and fitters lost their overtime wages, and the machinemen took up the attitude of defying the management merely as a threat against the stoppage of overtime allowance and in order to force the management to give them overtime work. That seems to be the reason why suddenly on 31st August 1965 the machinemen took up the attitude that they would not oil the machines, which they had been doing all along The workers on the other hand have not given any reason as to why the management should suddenly try to change the custom or usage that, according to them, prevailed in the factory.

7. The learned Counsel for the Party contended that there was a service condition under which the machinemen were not required to do oiling work and that service condition cannot be

unilaterally changed by the management without a notice under Section 9-A of the Industrial Disputes Act. In the first place, before Section 9 A of the Industrial Disputes Act could be pressed into service, the workmen had to show that there was such service condition. Service condition may be the result of a contract between the parties, either expressed or implied or by long usage or custom. In the instant case, as I have stated before, there could not have been any usage, or custom for the reasons that I have already mentioned. The counsel for the I party relied upon an agreement under which the company is bound by the settlement reached between the Bombay Mill Owners Association and the Union of Workers. But so far as I can see from that settlement there is nothing to show that it is the machinemen who should do the oiling work. All that it says is that if there are Oilers in the department, their standard wages are fixed at a particular rate. The settlement does not cast an obligation to appoint Oilers and as a matter of fact no Oilers are contemplated to be engaged in the Dying and Bleaching and other allied processing departments. Even assuming for the moment that management are bound to employ Oilers in the Processing Factory, that is a matter for a separate demand and adjudication on that demand. That question cannot be gone into in this Reference in which I have been asked to answer only as to whether the oiling of machines was part of the work of the machinemen employed in the factory prior to 31st August 1955. Hence the question of necessity to appoint Oilmen does not arise. We are only concerned with the practice that prevailed prior to 31st August 1955 and my answer to that is, that the machinemen were oiling the machines like Printing machines, jiggers, Tenters, Drying machines etc., in the Processing Factory. In view of that finding the workmen, according to me, were not justified in trying to operate the machines without oiling which would result in considerable damage to the machines and hence the management had rightly prevented them doing work. The management have not violated the service conditions of the machinemen and no notice under Sec. 9-A of the Industrial Disputes Act is contemplated It really amounts to a strike on the part of the machinemen who refused to oil the machines before starting the machines, and therefore wilfully disobeyed the lawful orders of the management.

8. My answer to the issues on the pleadings is that there was no agreement, custom or usage under which the machinemen were not required to do oiling work and the oiling work was not

done by the men designated for that purpose as alleged by the I Party Union, and that the men kept themselves idle in wilful isobedience to the orders of the management to oil the machines as usual, as pleaded by the II Party management

9. In the result I pass the following award.— The Reference is rejected and it is declared that the oiling of machines like the Printing machine, Jiggers, Tenters, Drying machines etc , was part of the work of the machinemen employed by the Mysore Spinning & Manufacturing Co., Ltd, Processing Factory prior to 31st August 1965 and that the management was justified in not allowing the machinemen to carry on the work unless they oil the machines and that they have not contravened section 9 A of the Industrial Disputes Act, 1917, and that the workers are not justified in refusing to obey the lawful orders of the management. There will, however, be no order as to costs.

V. C. RAMACHANDRAN,
Presiding Officer,
Addl. Industrial Tribunal.
Bangalore-2.
9-1-68.